

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHNATHAN BARNETT

Plaintiff,

v.

ST. LOUIS CITY JUSTICE CENTER, et al.

Defendants.

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No. 4:18-cv-00841-CDP

MEMORANDUM AND ORDER

This matter is before the Court on a document filed by plaintiff Johnathan Barnett that has been construed as a motion for reconsideration. (Docket No. 17). For the reasons discussed below, the motion will be granted.

Background

Plaintiff is a pro se litigant currently incarcerated at the St. Louis City Justice Center (SLCJC) in St. Louis, Missouri. He filed a civil action pursuant to 42 U.S.C. § 1983 on June 4, 2018. (Docket No. 1). On August 27, 2018, the Court dismissed plaintiff's claims against the SLCJC and Officer O. Sullivan. (Docket No. 5). However, the Court directed that defendant Breana Ems be served in her individual capacity pursuant to the waiver agreement the Court maintains with the St. Louis City Counselor's Office. On December 5, 2018, Erin K. McGowan entered her appearance as counsel of record for defendant Ems. (Docket No. 15).

On November 21, 2018, mail sent to plaintiff was returned as undeliverable. (Docket No. 13). Thereafter, on January 4, 2019, before any response had been filed by defendant Ems, the Court dismissed plaintiff's complaint without prejudice for failing to provide the Clerk of Court with a forwarding address. *See* E.D. Mo. L.R. 45 – 2.06(B) (“If any mail to a pro se plaintiff or

petitioner is returned to the Court without a forwarding address and the pro se plaintiff or petitioner does not notify the Court of the change of address within thirty (30) days, the Court may, without further notice, dismiss the action without prejudice”). The instant motion for reconsideration was filed by plaintiff on November 25, 2019. (Docket No. 17).

Discussion

Plaintiff has filed a document that has been construed as a motion to reconsider the Court’s dismissal of his complaint following the return of his mail without a forwarding address. In the motion, plaintiff states that he remains a pretrial detainee at the SLCJC and “recently received a letter” informing him that his lawsuit was dismissed for failure to provide a forwarding address. Plaintiff asserts that he has not been released from the SLCJC during the pendency of this case, and thus has never needed to provide a notice of a change of address. He further states his belief that the SLCJC was depriving him of his mail.

Having reviewed the motion, the Court finds that plaintiff has shown good cause why the Court should grant it. The Court will therefore vacate its order of January 4, 2019, dismissing plaintiff’s case without prejudice. Additionally, the Court will direct defense counsel to file a written response within **thirty (30) days** of the date of this order.


Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion to reconsider (Docket No. 17) is **GRANTED**.

IT IS FURTHER ORDERED that the Court’s dismissal order of January 4, 2019 (Docket No. 16) is **VACATED**.

IT IS FURTHER ORDERED that counsel for defendant shall file a written response within **thirty (30) days** of the date of this order.

Dated this 4th day of December, 2019.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE